

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

LANDSCAPE CONSULTANTS OF
TEXAS, INC., and METROPOLITAN
LANDSCAPE MANAGEMENT,
INC.,

Plaintiffs,
v.

CITY OF HOUSTON, TEXAS, and
MIDTOWN MANAGEMENT
DISTRICT,

Defendants.

Civil Action No. 4:23-cv-03516

DECLARATION OF CYLENTHIA HOYRD

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

1. My name is Cylenthia Hoyrd. I am over twenty-one (21) years of age, of sound mind, and have no disabilities that would prevent me from giving this affidavit. All the matters contained in this affidavit are true and correct and are based upon my own personal knowledge or knowledge I have obtained from others.

2. I serve as the Interim Director for the City of Houston's Office of Business Opportunity. In that role, I am familiar with, have reviewed, and frequently do review Chapter 15, Article 5 of the City of Houston's Code of Ordinances. This ordinance governs the Minority, Women, and Small Business Enterprise ("MWSBE") program. My understanding of said ordinances and statutes provides me with a detailed understanding of the means and methods the City of Houston is expected to follow when awarding contracts to certified MWSBEs.

3. The City of Houston (the "City") administers the MWSBE program to stimulate growth of the local minority, women, and small business enterprises in all

phases of city contracting. Additionally, the objectives of the program are: (1) to increase the utilization of such local firms in providing certain goods and services in a particular City management district; (2) to provide opportunities to broaden and enhance local firms' ranges of capacities of work; and (3) to increase opportunities for such local firms to serve as contractors, in addition to acting as subcontractors to others. In short, the program strives to remedy discriminatory practices and eliminate statistical disparities in city contracting.

4. The City's MWSBE program has operated for almost twenty (20) years, and during that time, the City undertook and adopted two (2) disparity studies. The 2006 City of Houston disparity study is available at the City of Houston's website.¹ The City's 2012 Construction Disparity Study is also available at the City's website.² The City's 2006 disparity study shows a significant statistical disparity between the availability and utilization of minority businesses by the City that cannot be adequately explained by non-discriminatory factors.

5. The City contracted for a new disparity study in September of 2016. Due to unforeseen circumstances, this study could not be completed and adopted by the City.

6. The City contracted with another disparity study contractor, MGT, in March 2023. This study is currently undergoing a review process before its submission to City Council for approval in the fall of 2024.

7. This study will guide the City on whether or not it needs to modify its criteria to better serve all certified MWSBEs, while still maintaining its goal to stimulate the growth of disadvantage contractors. The City believes that it is likely that the new study will affect presumptive groups that are a part of each of the four categories: goods, services, professional services, construction. There is significant likelihood that the MWSBE standards will be revised due to changes in the figures associated with the City's historical spend and utilization of minority and women-owned business have changed.

¹ Mason Tillman Associations, Ltd., *The City of Houston Disparity Study* (Dec. 2006), <https://www.houstontx.gov/obo/docsandforms/2006-COH-Disparity-Study.pdf>.

² NERA Economic Consulting, *The State of Minority- and Women-Owned Business Enterprise in Construction: Evidence from Houston* (Apr. 2012), <https://www.houstontx.gov/obo/docsandforms/2012-Construction-Disparity-Study.pdf>

8. Specifically, the City's disparity study contractor will present the new disparity study to City Council's Economic Development Committee on July 17th. There will be two virtual town hall meetings scheduled for that week as well to discuss the results of the new study. The City will establish a portal to take public comments for 30 days after these presentations.

9. While a new study is being conducted, the City will continue to administer a constitutionally-sound MWSBE program that is narrowly tailored, taking only the steps necessary to ensure access for minority and women-owned businesses in City contracting through establishing non-quota contract goals, requiring good faith efforts.

10. The City's contracting efforts are not solely limited to certified MWSBES. Numerous contractors, including Landscape Consultants of America, LLC ("Landscape"), a plaintiff in this lawsuit, are awarded contracts. In fact, Landscape was awarded a contract with the City as recently as May 11, 2021. The term of this contract has not yet expired, and Landscape has been paid \$644,273 as of June 11, 2024, by the City of Houston under that contract.

11. Landscape has not currently retained the services of an MWSBE contractor for any portion of its City of Houston contract. The City has written Landscape letters, called them, and asked Landscape to submit evidence of its good faith efforts to utilize an MWSBE contractor. To date, Landscape has not done so.

12. With respect to Plaintiff Metropolitan Landscape Management, Inc. ("Metropolitan"), it has never bid on a City of Houston contract. Moreover, the City does not have any information or evidence that Metropolitan is even ready or able to bid on City contracts.

13. Neither Landscape nor Metropolitan has bid on a City of Houston contract since September 19, 2023—the date this lawsuit was filed.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 18th day of June, 2024, Houston, Texas.


Cylenthia Hoyid